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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/826,263	10/826,263 04/19/2004 James B. McKim JR.		10003851-3	9405	
7.	590 09/27/2006	EXAMINER			
AGILENT TECHNOLOGIES, INC.			PATEL, PARESH H		
Legal Departm	ent, DL429				
Intellectual Property Administration			ART UNIT	PAPER NUMBER	
P.O. Box 7599 Loveland, CO 80537-0599			2829	-	
			DATE MAILED: 09/27/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

1)⊠ Responsive to communication(s) filed on 08/25/2006 & 09/19/2006.  2a)□ This action is FINAL. 2b)□ This action is non-final.  3)□ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)☑ Claim(s) 6 and 24-37 is/are pending in the application.  4a) Of the above claim(s) is/are evilthdrawn from consideration.  5)□ Claim(s) is/are allowed.  6)□ Claim(s) is/are rejected.  7)□ Claim(s) is/are subject to the Examiner.  Claim(s) 6.24-37 are subject to restriction and/or election requirement.  Application Papers  9)□ The specification is objected to by the Examiner.  10)□ The drawing(s) filed on is/are: a)□ accepted or b)□ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11)□ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12)□ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)□ All b)□ Some * ○)□ None of:  1.□ Certified copies of the priority documents have been received.  2.□ Certified copies of the priority documents have been received in Application No.  3.□ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for a list of the certified copies not received.			Application No.	Applicant(s)				
Parish Patel  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - If NO period for reply is peoffed above, the macinum station yelded will peoply and the second mainly sted state 13tk, 900 MONTH for me he mainling date of this communication.  - If NO period for reply is peoffed above, the macinum station yelded will apply and the second ASANDONED (50 U.S.C. § 133) are made patient term adjustment. See 37 CFR 1,704(9) are made patient term adjustment. See 37 CFR 1,704(9) are made patient term adjustment. See 37 CFR 1,704(9) are made patient term adjustment. See 37 CFR 1,704(9) are made patient term adjustment. See 37 CFR 1,704(9) are made patient term adjustment. See 37 CFR 1,704(9) are made patient term adjustment. See 37 CFR 1,704(9) are made patient term adjustment. See 37 CFR 1,704(9) are made patient term adjustment. See 37 CFR 1,704(9) are made patient term adjustment. See 37 CFR 1,704(9) are made patient term adjustment. See 37 CFR 1,704(9) are made patient term adjustment. See 37 CFR 1,704(9) are made patient term adjustment. See 37 CFR 1,704(9) are made patient term adjustment. See 37 CFR 1,704(9) are made patient term adjustment term adjustment term and adjustment term adjustment. See 37 CFR 1,704(9) are made patient term adjustment term and adjustment term adjustment term and adjustment term adjustment term adjustment term and adjustment term adjustment ter			10/826,263	MCKIM, JAMES B.				
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## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction requirement is further extended (see new claims filed on 09/30/2005).
- 2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Claims 6 and 24-28, drawn to a source to indicate the current flow, classified in class 324, subclass 133.
  - II. Claims 32-37, drawn to an apparatus, classified in class 340, subclass664.
- III. Claims 29-31, drawn to a method, classified in class 340, subclass 550.

  The inventions are distinct, each from the other because of the following reasons:
- 3. Inventions II and I related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because of an indicator, as an example. The subcombination has separate utility such as by itself or in a different combination.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in

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accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

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- 4. Inventions (I-II) and (III) are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the process for using the product as claimed can be practiced with another materially different product such as source of claim 6 or an apparatus of claim 32.
- 5. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.
- 6. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

- 7. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
- 8. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

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## Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paresh Patel whose telephone number is 571-272-1968. The examiner can normally be reached on 8:00 to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ha Nguyen can be reached on 571-272-1678. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paresh Patel 09/02/06

Primary Examiner

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September 22, 2006